

COMPLAINT

TRACIE KEEFER (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against VERDE ENERGY USA, INC. (“Defendant”):

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA").

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant conducts business in the Commonwealth of Pennsylvania and as such, personal jurisdiction is established.

1 Defendant.

2 14. Beginning in September 2014, and continuing through October 2014,
3 Defendant called Plaintiff on her cellular telephone.
4

5 15. When contacting Plaintiff on her cellular telephone, Defendant used
6 an automatic telephone dialing system and automatic and/or pre-recorded
7 messages.
8

9 16. Defendant's messages would state its name and that its call was "for
10 marketing purposes."
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12 17. Defendant's telephone calls were not made for "emergency purposes."
13

14 18. For example, Defendant called Plaintiff on: October 1, 2014; October
15 2, 2014 (3 times); October 3, 2014; and October 4, 2014.

16 **DEFENDANT VIOLATED THE**
17 **TELEPHONE CONSUMER PROTECTION ACT**

18 19. Plaintiff incorporates the forgoing paragraphs as though the same were
19 set forth at length herein.
20

21 20. Defendant initiated multiple automated telephone calls to Plaintiff's
22 cellular telephone using a prerecorded voice.

23 21. Defendant initiated these automated calls to Plaintiff using an
24 automatic telephone dialing system.

25 22. Defendant's calls to Plaintiff were not made for emergency purposes.

1 23. Defendant's calls to Plaintiff, in and after September 2014, were not
2 made with Plaintiff's prior express consent.

3 24. Defendant's acts as described above were done with malicious,
4 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
5 under the law and with the purpose of harassing Plaintiff.
6

7 25. The acts and/or omissions of Defendant were done unfairly,
8 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,
9 lawful right, legal defense, legal justification or legal excuse.
10

11 26. As a result of the above violations of the TCPA, Plaintiff has suffered
12 the losses and damages as set forth above entitling Plaintiff to an award of
13 statutory, actual and trebles damages.
14

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16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff, TRACIE KEEFER, respectfully prays for a
18 judgment as follows:
19

- 20 a. All actual damages suffered pursuant to 47 U.S.C. §
21 227(b)(3)(A);
22 b. Statutory damages of \$500.00 per violative telephone call
23 pursuant to 47 U.S.C. § 227(b)(3)(B);
24
25

- 1 c. Treble damages of \$1,500 per violative telephone call pursuant
2 to 47 U.S.C. §227(b)(3);
3
4 d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
5
6 e. Any other relief deemed appropriate by this Honorable Court.

7 **DEMAND FOR JURY TRIAL**

8 PLEASE TAKE NOTICE that Plaintiff, TRACIE KEEFER, demands a jury
9 trial in this case.

10
11 RESPECTFULLY SUBMITTED,

12 DATED: November 17, 2014

13 KIMMEL & SILVERMAN, P.C.

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